

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

USCA Docket Number:

USDC Docket Number : 04-cv-10393

J. Brian Moore, et al

v.

David B. Madoff, et al

CLERK'S CERTIFICATE

I, Sarah A Thornton, Clerk of the United States District Court for the District of Massachusetts, do hereby certify that the annexed documents as indicated on the certified copy of the docket and contained in Volume(s) I & II are the original pleadings and constitute the record on appeal in the above entitled case for the Notice of Appeal filed on 5/31/05.

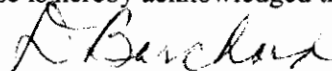
In testimony whereof, I hereunto set my hand and affix the seal of this Court on June 6, 2005.

Sarah A. Thornton, Clerk of Court

By: 

Jeanette Ramos, Deputy Clerk

Receipt of the documents in the above entitled case is hereby acknowledged this date: 6/6/05.



Deputy Clerk, US Court of Appeals

Please complete the following information:

COURT OF APPEALS DOCKET NUMBER ASSIGNED: _____

APPEAL

**United States District Court
District of Massachusetts (Boston)
CIVIL DOCKET FOR CASE #: 1:04-cv-10393-NG**

Moore et al v. Delaney et al
Assigned to: Nancy Gertner
Cause: 28:0158 Notice of Appeal re
Bankruptcy Matter (BA

Date Filed: 02/23/2004
Jury Demand: None
Nature of Suit: 422
Bankruptcy Appeal (801)
Jurisdiction: Federal Question

In Re

Michael J. Delaney

Plaintiff

J. Brian Moore

represented by **James F. Creed, Jr.**

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Plaintiff

Laura M. Moore

represented by **James F. Creed, Jr.**

(See above for address)

LEAD ATTORNEY

ATTORNEY TO BE NOTICED

Richard S. Hackel

(See above for address)

LEAD ATTORNEY

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V.

Defendant

Attorney David Madoff represented by **David B. Madoff**

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Defendant

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Defendant

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Defendant

Sampson Lumber Co.

Defendant

C.N.J. Inc.

Defendant

**North River Plumbing,
Heating & Water
Filtration**

Defendant

P.A. Landers, Inc. represented by **Elliot M Sherman**
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Defendant

Comm. of Mass Dept of Revenue represented by **Stephen G. Murphy**
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Defendant

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Defendant

Susan Kiley

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Defendant

Scott Kearns

Defendant

Sandra Kearns

Defendant

Pembroke, Town of

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Defendant**Pamela Ingham**represented by **Arvid J. Peterson**

Stephen E. Shamban Law Offices










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*LEAD ATTORNEY**ATTORNEY TO BE NOTICED***Defendant****Matthew Delany**

Date Filed	#	Docket Text
02/23/2004	1	Notice of APPEAL FROM BANKRUPTCY COURT. File received, filed by J. Brian Moore, Laura M. Moore.(Gawlik, Cathy) (Entered: 03/03/2004)
03/02/2004	2	Bankruptcy Scheduling Order Appellant Brief due by 3/17/2004. Appellee Brief due by 4/1/2004. Appellant Reply Brief due by 4/12/2004. (Gawlik, Cathy) (Entered: 03/03/2004)
03/24/2004		Mail Returned as Undeliverable. Mail sent to Scott D. Peterson, Esq. (Filo, Jennifer) (Entered: 03/24/2004)
03/24/2004	3	MOTION for Extension of Time to File Appellee's Brief and Request for Expedited Consideration by Gerrity Company Inc..(Filo, Jennifer) (Entered: 03/31/2004)
03/24/2004	4	MOTION for Order Dismissing Appeal Due to Mootness by Gerrity Company Inc..(Filo, Jennifer) (Entered: 03/31/2004)
04/01/2004		Judge Nancy Gertner : Electronic ORDER entered granting 3 Motion for Extension of Time to File Appellee's Brief. (Filo, Jennifer) (Entered: 04/01/2004)

		04/01/2004)
04/01/2004		5 RESPONSE to Motion re 4 MOTION to Dismiss Appeal Due to Mootness filed by J. Brian Moore, Laura M. Moore. (Filo, Jennifer) (Entered: 04/01/2004)
09/23/2004		6 MOTION for Hearing on Motion for Order Dismissing Appeal by Gerrity Company Inc..(Filo, Jennifer) Additional attachment(s) added on 9/28/2004 (Filo, Jennifer). Additional attachment(s) added on 9/28/2004 (Filo, Jennifer). (Entered: 09/28/2004)
11/22/2004		7 Judge Nancy Gertner : ORDER entered MEMORANDUM AND ORDER RE: DEFENDANT GERRITY COMPANY'S MOTION TO DISMISS (Filo, Jennifer) (Entered: 11/24/2004)
12/21/2004		8 APPELLATE BRIEF by Gerrity Company Inc.. (Filo, Jennifer) (Entered: 01/03/2005)
12/21/2004		9 APPENDIX re 8 Appellate Brief by Gerrity Company Inc.. (Attachments: # 1 Exhibit 1# 2 Exhibit 2)(Filo, Jennifer) (Entered: 01/03/2005)
12/21/2004		10 MOTION for Expedited Hearing by Gerrity Company Inc..(Filo, Jennifer) (Entered: 01/03/2005)
02/09/2005		Judge Nancy Gertner : Electronic ORDER entered granting 10 Motion for Hearing..HEARING ON MERITS OF BANKRUPTCY APPEAL SET FOR 3/23/05 AT 2:30PM (Molloy, Maryellen) (Entered: 02/09/2005)
02/09/2005		Set Deadlines/Hearings: Bankruptcy Hearing set for 3/23/2005 02:30 PM in Courtroom 2 before Nancy Gertner. (Molloy, Maryellen) (Entered: 02/09/2005)
02/10/2005		E-Mail Notice re Electronic Order originally issued on 2/9/05 returned as undeliverable. Name of Addressee: David Madoff. Attorney changed firms, clerk informed attorney to change email address. (Filo,

		Jennifer) (Entered: 02/10/2005)
02/15/2005	●11	NOTICE of Hearing, filed. (Filo, Jennifer) (Entered: 02/16/2005)
03/07/2005	●12	SUPPLEMENTAL BRIEF by Gerrity Company Inc.. (Filo, Jennifer) (Entered: 03/09/2005)
03/23/2005	●	Electronic Clerk's Notes for proceedings held before Judge Nancy Gertner : Motion Hearing held on 3/23/2005 on Merits of the Bankruptcy Appeal; all matters taken under advisement. (Court Reporter O'Hara.) (Molloy, Maryellen) (Entered: 03/23/2005)
04/21/2005	●13	Judge Nancy Gertner : ORDER entered. MEMORANDUM AND ORDER RE: APPEAL FROM THE DECISION AND JUDGMENT OF THE UNITED STATES BANKRUPTCY COURT FOR THE DISTRICT OF MASSACHUSETTS(Filo, Jennifer) (Entered: 04/21/2005)
04/21/2005	●14	Judge Nancy Gertner : ORDER entered. JUDGMENT (Filo, Jennifer) (Entered: 04/21/2005)
04/26/2005	●	E-Mail Notice re docket entries 13 and 14 originally issued on 4/21/05 returned as undeliverable as to Attorney Madoff. Clerk has changed information and recommended attorney change information on ECF. (Filo, Jennifer) (Entered: 04/26/2005)
05/02/2005	●15	MOTION for Rehearing by J. Brian Moore, Laura M. Moore.(Filo, Jennifer) (Entered: 05/03/2005)
05/05/2005	●	Mail Returned as Undeliverable. Mail sent to Stephen G. Murphy, Esq. (Memo & Order and Judgment) (Filo, Jennifer) (Entered: 05/05/2005)
05/09/2005	●16	RESPONSE to Motion re 15 MOTION for Rehearing filed by Gerrity Company Inc.. (Filo, Jennifer) (Entered: 05/10/2005)
05/17/2005	●17	MEMORANDUM OF LAW by J. Brian Moore, Laura

		M. Moore to <u>15</u> MOTION for Hearing. (Creed, James) (Entered: 05/17/2005)
05/21/2005	●	Judge Nancy Gertner : Electronic ORDER entered denying <u>15</u> Motion for Hearing: Plaintiffs have not offered any new relevant law or facts; they simply rehash the same arguments which the court has not found to be persuasive. With respect to the citation to Queeno v. Colonial Cooperative Bank, 2005 WL 1022036, the case is distinguishable. In Queeno, the bank had actual notice of the purchase and sale agreement and its details. In the instant case, the Gerrity Company did not have such notice because Delaney fraudulently altered the agreement. Moore v. Gerrity, 62 Mass. App. Ct. 522, 524-25 (2004). Gerrity had actual notice only of a "down payment in the amount of \$30,000 which was to be the subject of a mortgage." Id. at 524. (Gertner, Nancy) (Entered: 05/21/2005)
05/31/2005	●18	NOTICE OF APPEAL as to <u>14</u> Judgment by J. Brian Moore, Laura M. Moore. NOTICE TO COUNSEL: A Transcript Report/Order Form, which can be downloaded from the First Circuit Court of Appeals web site at http://www.ca1.uscourts.gov/clerks/transcript.htm MUST be completed and submitted to the Court of Appeals. Appeal Record due by 6/20/2005. (Creed, James) (Entered: 05/31/2005)
05/31/2005	●	Filing fee: \$ 255.00, receipt number 64593 regarding Notice of Appeal (Filo, Jennifer) (Entered: 06/01/2005)